

WALSH
PIZZI
O'REILLY
FALANGA

Marc D. Haefner
Direct Dial: (973) 757-1013
mhaefner@walsh.law

THREE GATEWAY CENTER
100 Mulberry Street, 15th Floor
Newark, NJ 07102
T: 973.757.1100
F: 973.757.1090
WALSH.LAW

October 1, 2019

VIA ECF

Hon. Susan D. Wigenton, U.S.D.J.
US District Court for the District of New Jersey
Martin Luther King Jr. Bldg. & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: United States of America v. D'Amico Shipping Italia S.P.A.
Civil Action No. 2:19-cr-00284 (SDW)

Dear Judge Wigenton:

This office represents Mr. Balai as the whistleblower in the above-captioned matter. As Your Honor is aware, Mr. Balai was the sole APPS whistleblower. His information, and his nearly two years of cooperation while the Government held him away from this family in the United States, led to the Government's \$3,000,000 recovery through the criminal fine paid by Mr. Balai's former employer. We now write only to highlight that the Government's amended papers filed last Friday afternoon clarify that Mr. Balai's award is not capped at \$250,000 as the Government originally stated but rather at \$1,500,000, 50% of the total \$3,000,000 APPS award. *Compare ECF 17 at 3 (incorrect assertion of \$250,000 award cap) with ECF 19 at 2 (corrected statement of \$1,500,000 award cap).*

Now that the Government's error in calculating the maximum award has been demonstrated, *see* ECF 18, and corrected, *see* ECF 19, the Government offers no explanation for its amended recommendation that this Court now make only an 8.3% award of the total \$1,500,000 cap. The 8.3% award the Government now recommends would be the lowest award ever given any sole APPS whistleblower. As Mr. Balai has presented to the Court, *see* ECF 10 and 18, 50%, is almost the invariable APPS award which the Government has recommended in other APPS cases, and that Courts have awarded APPS whistleblowers. The Government's own list of awards is not the contrary. Thus, we continue to believe a proper award to Mr. Suhas would be 50% of the total \$3,000,000 fine, or \$1,500,000, rather than the 8.3% the government now recommends.

We remain happy to appear before Your Honor to fully discuss these issues. Given the extreme financial situation of Mr. Balai and his family, we respectfully request that should the Court desire a hearing prior to decision, that the Court set the hearing at the earliest available time.

Respectfully submitted,



Marc D. Haefner